

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

JULIO A. AMARILLA,

Plaintiff,

vs.

STATE OF NEVADA ex rel. NEVADA  
DEPARTMENT OF CORRECTIONS et al.,

Defendants.

3:10-cv-00523-RCJ-WGC

**ORDER**

This prisoner civil rights case arises out of alleged due process violations during Plaintiff's disciplinary hearing for assaulting another inmate and involvement in gang activities. Pending before the Court is Defendant Brian Williams's Motion to Dismiss (ECF No. 14) and the magistrate judge's Report and Recommendation ("R&R") (ECF No. 19). The Court agrees with the majority of the R&R but respectfully disagrees that the case should not be dismissed as against Williams for lack of the requisite personal participation in any cognizable due process violation. Plaintiff makes clear that Williams did not participate in the underlying disciplinary proceedings where most of the alleged due process violations occurred, i.e., inadequate notice of charges, inability to call witnesses, etc. According to Plaintiff, the hearing officer was "Lee Griggs." The only procedural complaint against Williams is his questioning of witnesses outside of Plaintiff's presence during the appeal. But *Wolff's* due process standards are much more limited than those applicable to trial and do not include the right to be present during witness questioning or the right to have an appeals officer rely purely on the record as established at the

1 initial hearing. *See Wolff v. McDonnell*, 418 U.S. 539, 556 (1974). Specifically, there is no right  
2 to confront or cross-examine adverse witnesses in prison disciplinary hearings, the only type of  
3 violation Williams is alleged personally to have committed. *Id.* at 567–68.

4 **CONCLUSION**

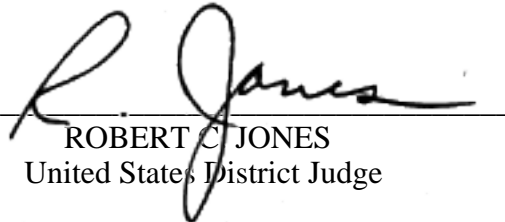
5 IT IS HEREBY ORDERED that the Report and Recommendation (#19) is  
6 ADOPTED in part and REJECTED in part.

7 IT IS FURTHER ORDERED that the Motion to Dismiss (#14) ) is GRANTED.

8 IT IS FURTHER ORDERED that the Clerk shall enter judgment and close the case.

9 IT IS SO ORDERED.

10 Dated March 14, 2012.

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12 ROBERT C. JONES  
13 United States District Judge  
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